

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>In Re:</b>	<b>§</b>	<b>Chapter 11</b>
	<b>§</b>	
<b>W.R. GRACE &amp; CO., et al.,</b>	<b>§</b>	<b>Jointly Administered</b>
	<b>§</b>	<b>Case No. 01-01139 (JKF)</b>
<b>Debtors.</b>	<b>§</b>	
	<b>§</b>	

**FEE AUDITOR'S FINAL REPORT REGARDING  
FEE APPLICATION OF PHILLIPS, GOLDMAN & SPENCE, P.A.,  
FOR THE TWENTY-EIGHTH INTERIM PERIOD**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Twenty-Eighth Interim Fee Application of Phillips, Goldman & Spence, P.A. (the “Application”).

**BACKGROUND**

1. Phillips, Goldman & Spence, P.A. (“PG&S”), was retained as local counsel to David T. Austern, Future Claimants’ Representative. PG&S seeks approval of fees totaling \$60,238.00 and expenses totaling \$2,296.10 for its services from January 1, 2008 through March 31, 2008 (the “Application Period.”)

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2008, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330,

Issued January 30, 1996 (the "Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We served an initial report on PG&S, and received a response from PG&S, portions of which response are quoted herein.

### DISCUSSION

3. In our initial report, we noted that on January 28, 2008, Attorney John C. Phillips, Jr., billing at an hourly rate of \$400.00, spent 0.80 for \$320.00 in fees on what appeared to be non-working travel. The time entry is as follows:

JCP	01/28/08	Review of Certificate of No Objection re: Claim Settlement Notice (.1); preliminary review of 1/22/08 (.5 hr) and 1/23/08 (.5 hr) Hearing Transcripts (voluminous); review of Agenda for 1/28/08 Hearing (.1); court appearance for Omnibus Hearing (2.6); <b>travel to and from Courthouse (.8);</b> review of Debtors' Counter-Designations on Mission Towers Appeal (.1); review of Allegheny Center Associates Memo in Support of Motion for Relief from Order of Dismissal (.2).	4.90	1,960.00
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Pursuant to Local Rule 2016-2(d)(viii): "Travel time during which no work is performed shall be separately described and may be billed at no more than 50% of regular hourly rates." Thus, we asked PG&S whether the required 50% discount had been applied to this time. PG&S responded as follows: "We agree to reduce Mr. Phillips' time .4 hours (\$160.00) for his travel." We appreciate PG&S' response and recommend a reduction of \$160.00 in fees.

### CONCLUSION

4. Thus, we recommend approval of \$60,078.00 in fees (\$60,238.00 minus \$160.00) and \$2,296.10 in expenses for PG&S' services for the Application Period.

Respectfully submitted,

**WARREN H. SMITH & ASSOCIATES, P.C.**

By:   
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**FEE AUDITOR**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 21<sup>st</sup> day of August, 2008.

  
Warren H. Smith

**SERVICE LIST**  
Notice Parties

**The Applicant**

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